

Message

From: Foster, Patrick E (DEC) [patrick.foster@dec.ny.gov]
Sent: 12/11/2018 4:12:44 PM
To: Doyle, James [Doyle.James@epa.gov]; Mintzer, Michael [Mintzer.Michael@epa.gov]
Subject: RE: Newtown Creek Early Action

Thanks, Jim. I'm very glad to hear the clarification regarding David Bridgers' statement on a draft order – I was taken aback by that at the meeting, but felt it wasn't my place to call him on it.

The Department has reviewed multiple orders that affect upland sites in the course of the Gowanus project and I hope we can have the same level of cooperation on that front for Newtown Creek. Where the Department can be helpful and coordination is paramount, we should be communicating prior to entering into agreements as much as is appropriate.

In this case, the Department's interest is definitely about the scope of work.

Looking forward to learning more about what is proposed and how you will be framing the NCG's obligations. If you have examples from other similar EPA projects, I'd appreciate anything you could forward for reference.

Thanks.
Patrick

From: Doyle, James <Doyle.James@epa.gov>
Sent: Monday, December 10, 2018 6:39 PM
To: Foster, Patrick E (DEC) <patrick.foster@dec.ny.gov>; Mintzer, Michael <Mintzer.Michael@epa.gov>
Subject: RE: Newtown Creek Early Action

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Patrick, a few thoughts.

First, notwithstanding the NCG's desire to draft our order, it is an EPA order, and whatever time they have spent preparing an administrative order for us was, regrettably for them, not time well spent. We have not seen it, and I did tell David Bridgers that we did not need to see it. We will draft our own.

As for the administrative order that we will draft, while I do not see any reason why we would not share it with you (other than possible FOIA implications), I can say that in my 30 years here I am unaware of us sharing an AOC with the State for review during negotiations (unless the state is a signatory, obviously). Mostly because I have do not recall the DEC ever asking. Nor have we ever asked the DEC to review orders it is negotiating with other parties in a matter that we are not a party to.

I assume you are interested in the work that is to be performed, principally. I may be incorrect. But if so, I would imagine the SOW is something that we might more likely share with the DEC.

But to be clear, there is no order to share - we have not drafted one yet, and we neither have not intend to review any NCG draft.

From: Foster, Patrick E (DEC) <patrick.foster@dec.ny.gov>
Sent: Monday, December 10, 2018 11:48 AM
To: Mintzer, Michael <Mintzer.Michael@epa.gov>
Cc: Doyle, James <Doyle.James@epa.gov>; Prince, John <Prince.John@epa.gov>; Ian Beilby <ian.beilby@dec.ny.gov>
Subject: Newtown Creek Early Action

Mike,

I attended the recent meeting in Albany with NCG and EPA. John Prince was in Albany and I believe Jim Doyle was on the phone.

During the meeting, NCG stated that they either had or were soon going to develop a draft order that would cover implementation of their proposed early action. If such a draft exists or is expected, could you forward it for DEC review?

John also mentioned that there were ROD examples that, I believe, aligned in some fashion with what the NCG is proposing. Could you check in with John and see if those examples could also be forwarded?

Thanks.
Patrick

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